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Situation of human rights in Burundi

Note by the Secretary-General

The Secretary-General has the honour to transmit to members of the General Assembly a brief interim report on the human rights situation in Burundi prepared by Mr. Paulo Sérgio Pinheiro, Special Rapporteur of the Commission on Human Rights, pursuant to Commission on Human Rights resolution 1998/82 of 24 April 1998 and Economic and Social Council decision 1998/274.

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Annex

Interim report on the human rights situation in Burundi submitted by the Special Rapporteur of the Commission on Human Rights, pursuant to Economic and Social Council decision 1998/274

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I. Introduction

1. Pursuant to Commission on Human Rights resolution 1998/82, adopted on 24 April 1998 at its fifty-fourth session, the Special Rapporteur on the situation of human rights in Burundi is submitting to the General Assembly his third interim report, covering the period from 1 May to 15 September 1998 and describing the impressions received by the Special Rapporteur during his fifth visit to Burundi, from 21 August to 4 September 1998. The Special Rapporteur undertook his visit to Burundi after the Government had agreed on 31 July 1998 to his request of 17 July 1998 to visit the country.

2. The period covered by the present report was characterized by political developments, at both the national and the international level, that contributed to the promotion of peace and national reconciliation and to progress towards a solution to the Burundi crisis. The fifth visit of the Special Rapporteur occurred two months after President Pierre Buyoya and the President of the National Assembly reached an agreement on the political platform of the transition regime, for which a transitional constitution was adopted and a new Cabinet was appointed, with two new vice-presidents.

3. During his most recent stay in Burundi, the Special Rapporteur had talks with the highest political, administrative, judicial, military and religious authorities of the country, as well as with members of diplomatic missions accredited to Burundi and representatives of the United Nations system. He also held discussions with the Special Representative a.i. of the Secretary-General of the Organization of African Unity (OAU) and with a number of representatives of non-governmental associations engaged in the promotion of the status of women and of the protection of the rights of children. He also met with representatives of political parties and the local and international press.

4. The Special Rapporteur emphasizes yet again the outstanding commitment that the agencies of the United Nations system in Burundi daily demonstrate in assisting the victims of the crisis in often-difficult working and security conditions. He expresses his warmest thanks to the Director of the Office of the High Commissioner for Human Rights and his entire staff for the meticulous arrangements made for his mission, the cordial welcome extended to him, the logistical support provided to him and the smooth operation of his mission.

5. The Special Rapporteur wishes to commend the team of human rights officers deployed in Burundi for their courage and dynamism. He would like to thank the United Nations Development Programme (UNDP) and the World Food Programme (WFP) for their cooperation during the organization of his visits to various provinces of the country.

6. The visit of the Special Rapporteur was cut short after he broke his arm in a car accident on 31 August 1998 when he was returning from a visit to Kayanza province. Consequently, he was obliged to leave Burundi the following day, four days earlier than scheduled. After the car crash, the Special Rapporteur received medical treatment at the military hospital in Bujumbura and he was evacuated through Nairobi to Geneva, Switzerland, where he underwent a surgical operation on 2 September 1998.

7. The Special Rapporteur would like to thank the medical team at the military hospital in Bujumbura and Professor Sangaré Djibril, Special Representative a.i. of the Secretary-General of the OAU, for the medical care received when he was admitted to that hospital after the accident, and for the prompt action taken by the heads of United Nations agencies to facilitate his medical evacuation from Burundi. The Special Rapporteur would like to thank UNDP Offices in Bujumbura and Nairobi for their most instrumental assistance. He is particularly grateful to Dr. Bamory Konate, who accompanied him during his whole evacuation from Bujumbura to Geneva. He would like to thank all the kind messages received after the accident while in Burundi and Geneva.

8. The Special Rapporteur received a copy of a letter dated 5 May 1998 from the Permanent Representative of the United Republic of Tanzania to the United Nations addressed to the Chairman of the Commission on Human Rights at its fifty-fourth session. He takes note of the comments expressed in that document concerning his analysis of the impact of economic sanctions imposed on Burundi in his two previous reports.

9. The Special Rapporteur describes recent developments in the Burundi crisis in section I of the present report, reviews the current situation of human rights, especially the conditions of detention and life of the most vulnerable groups, in section II, and presents his observations and recommendations in section III.

II. Recent developments in the Burundi crisis

A. Major political developments: evolution of the Burundi conflict since the establishment of the Partenariat interne pour la paix

10. On 4 June 1998, the Burundian National Assembly marked the closing of its current session by approving a transitional document merging the 1993 constitution and a series of the decrees that were issued after the *coup d'état* that brought President Buyoya to power in July 1996.

11. The document formalizes changes such as the new partnership between the National Assembly and the Government, a general reduction in the size of the Government, the creation of two vice-presidential posts in lieu of a prime minister and an overall increase in the size of the National Assembly from 81 to 121 members to include representatives from 12 new political parties and 28 representatives from civil society, to be selected by President Buyoya in consultation with the President of the National Assembly. The new parties include members from the Guarantor of the Voice of Burundi (Inkinzo), Intwaru, the Party for People's Reconciliation (PRP), the People's Party (PP), the Rally for Democracy and Economic and Social Development (Raddes), the Social Democratic Party (PSD) and the Worker's Independent Party (PIT). Abasa, Anadde, Parena and the breakaway Union pour le progrès national (UPRONA) faction of Mr. Mukasi did not send delegates. As a result of the consultations undertaken, 117 of the planned 121 seats have been filled.

12. A new form of power-sharing is beginning, with the appointment of a member of the FRODEBU parliamentary group as one of two vice-presidents, and a new cabinet has been appointed, with a more balanced representation of the two main communities in the country.

13. The second round of talks that started in Arusha on 20 July 1998 came to an end on 29 July 1998. Participants discussed procedural rules and held a debate on the root causes of the conflict in Burundi. It was agreed that the next round of talks would take place on 12 October 1998 when commissions would be set up to discuss specific issues such as democracy, good governance and security in greater depth.

14. On 27 and 28 August 1998, the Government of Burundi organized a two-day meeting in Bujumbura, to discuss how the internal peace process could be reinforced. Members of the Government and the National Assembly attended the meeting. Particular issues addressed included the role of the transitional institutions, the new political platform and the strengthening of the internal dialogue. Issues such as democracy, genocide, the justice system, internal security and the problem of displacement were touched upon as well.

15. On 9 September, the Government of Burundi organized a series of talks at the provincial level aimed at promoting a continued internal dialogue to reinforce the peace process within the country. During the debates in the province of Bururi, the importance of the partnership between the National Assembly, the Government, the political parties and the members of civil society was emphasized. The need for a common political platform and transitional institutions as well as the creation of four commissions to discuss themes such as democracy, genocide, justice and impunity was acknowledged. In the province of Gitega, the local provincial authorities highlighted other relevant issues such as refugees, security and social and economic matters.

16. At the beginning of September 1998, a delegation from the Julius Nyerere Foundation visited Bujumbura to prepare the meeting scheduled to take place in Arusha in mid-October. Discussions were held with representatives from the Government and political parties to discuss the creation of committees that would provide the framework for conducting the external peace talks. Agreement was reached on the composition and leadership of the committees that would deal with the nature of the conflict, democracy and good governance, peace and security, development and reconstruction, and the implementation of future peace agreements.

B. Main findings of the Special Rapporteur

17. During his stay in Burundi, the Special Rapporteur travelled widely in several provinces of the country, especially in Makamba, Cibitoke, Karuzi and Kayanza, situated respectively in the south, north-west and north-east of the country. In each of those provinces the Special Rapporteur met with the governor, judges, military and police commanders and officers-in-charge of social community facilities. He visited sites of internally displaced persons as well as detention centres. During those visits, he was able to assess the extent to which the conditions of life and the situation of the population differ from one province to another.

18. In the provinces of Cibitoke and Makamba, the Special Rapporteur was able to see that the infrastructures of those

sites continue to be rather precarious. The political situation is still very tense, particularly in Nyanza Lac, south of Bujumbura, reachable by a road often exposed to rebel attacks. In the province of Karuzi, the Special Rapporteur visited the police detention centre and a hospital.

19. In the province of Kayanza, at the end of July and the beginning of August 1998, there occurred several security incidents said to have been committed by large groups of 1,000 to 2,000 well-armed rebels. Those incidents allegedly have led to the displacement of about 30,000 people in the province. But despite the attacks in August 1998, economic life has recovered and markets are well frequented. The Special Rapporteur visited some of the sites and several police and brigade *cachots* (prisons) in the province.

20. During his visit, the Special Rapporteur noted that the situation in Cibitoke had considerably improved over the past six months, thus enabling relief organizations to provide assistance to the refugees in a relatively efficient and unhindered manner. The vast majority of the formerly displaced were able to return to their homes as a result of important reconstruction programmes undertaken by the Burundian authorities. Large parts of the population were able to devote themselves to their normal activities. Signs of reconstruction were evident along the main roads, with homes being rebuilt and land being cultivated again.

21. Following the outbreak on 2 August 1998 of the conflict in the neighbouring Democratic Republic of the Congo, groups of refugees consisting of Congolese, Banyamulenge and Burundians living in Kivu sought sanctuary in Burundi. Most of them crossed the Ruzizi River into the province of Cibitoke. By mid-September 1998, refugees were still arriving, their number already exceeding 6,000. Relief agencies in cooperation with the Burundian authorities provided them with humanitarian assistance. The Special Rapporteur visited sites in Rugombo and Cibitoke, each capable of holding over 1,000 people.

22. During the visit of the Special Rapporteur and in September 1998, Burundi was facing a shortage of fuel arising from the disruption of the imports from the Democratic Republic of the Congo. The lack of fuel was hampering food distribution and jeopardized also the seed distribution programme. It was vital that the seeds should be distributed in time for the current planting season which lasted until mid-October 1998. The border between Burundi and the Democratic Republic of the Congo was reopened on the morning of 1 September 1998. It had been closed since the outbreak of hostilities in Kivu.

23. The Special Rapporteur was very pleased to know that the Office of the United Nations High Commissioner for Refugees in Burundi has strengthened its offices in Ngozi and Gitega, with the assignment of six international staff to those posts. The Office has increased its presence in those provinces to facilitate its work, which includes carrying out investigations into human rights violations, visits to detention centres and prisons and activities concerning the monitoring and promotion of human rights. The Ngozi office will also cover Kirundo, Kayanza and Muyinga, while the Gitega office will cover Cankuzo, Karuzi and Gitega. The current political climate seems to be most favourable to enabling the three components of the work of the Office, namely the observation mission, the technical cooperation activities and the legal assistance programme, to continue to play valuable roles.

III. Current human rights situation

24. Without seeking to be exhaustive in the present interim report, the Special Rapporteur would nevertheless like to bring to the attention of the General Assembly a number of allegations of human rights violations transmitted to him during the period under consideration, particularly as regards the right to life and physical integrity, arrests and arbitrary detentions and torture or cruel, inhuman or degrading treatment.

A. Security incidents

25. From the information collected during his mission, the Special Rapporteur considers that the most serious human rights violations continue to take place during attacks against the civilian population and killings in the course of military operations or rebel attacks or following clashes between the army and rebels in the western provinces.

26. Since 21 June 1998, when 17 parties to the Burundian conflict signed a joint declaration in Arusha calling for a suspension of hostilities by 20 July 1998, when the second round of talks was due to begin, the security situation has been marked by several incidents. Over the first weeks of July there were reports of renewed clashes in Bubanza, Kayanza and Kirundo, while fighting in the troubled southern provinces of Bururi and Makamba escalated significantly. The Makamba-Nyanza Lac main coast road (RN3) from Bujumbura was closed to relief agencies for several days.

27. The provinces of Rural Bujumbura and Bubanza remained unstable at the end of July, while attacks also took place in the formerly calmer provinces of Kayanza and

Muramvya. On 27 July 1998, an attack took place on Musema in Kayanza, during which the health centre was pillaged and the hospital damaged. About 70 beneficiaries who were being treated were forced to flee, while approximately 10 of the older, weaker beneficiaries were left behind. Further incidents occurred in the days that followed, during which houses and coffee plantations were burned and populations fled towards and into Ngozi.

28. At the end of July, in Rural Bujumbura province, 3,000 people had been displaced as a result of clashes between the army and rebels just south of Bujumbura, and local residents in the commune of Mutambu indicated that 20 people had been killed. The rebels reportedly belonged to the Forces nationales de libération (FNL), the armed wing of the Parti pour la libération du peuple hutu (PALIPEHUTU), and according to government sources, they were trying to destabilize the situation and make their presence known while the negotiations were under way in Arusha. The displaced people gathered in government-protected areas while the fighting continued. There were reports from humanitarian non-governmental organizations that some 2,000 people had fled after a rebel attack in the commune of Mutambu, and three or four FNL groups were said to be carrying out attacks in the area.

29. At the end of July 1998, an Italian expert in famine relief working for WFP, with more than 25 years of experience in Africa, was ambushed, robbed and shot in his house.

30. In Kabesi, in the province of Rural Bujumbura, on the very day of the arrival of the Special Rapporteur, a therapeutic feeding centre, built by the Italian "Gruppo de Voluntariato Civile" (GVC) to host around 200 severely malnourished children, was torched and completely destroyed by arsonists a few days before its scheduled inauguration on 1 September 1998. The destruction, attested by the Special Rapporteur during his visit and attributed to rebel groups, was inflicted despite a military position located less than 200 metres from the new feeding centre. In consequence, GVC announced the indefinite suspension of its health and nutrition activities in Rural Bujumbura pending an official investigation and security guarantees.

31. The Special Rapporteur has received several allegations of retaliation by elements of the armed forces vis-à-vis families whose relatives are involved with rebel groups. Several relatives were beaten and their plantations and houses were burned. After the confrontations or military operations, the military closed the areas to access by non-governmental organizations and human rights observers. The Special Rapporteur received allegations that during the incidents, civilians were obliged to crawl into holes filled with water and to spend the night there.

B. Situation of internally displaced persons, regrouped populations and refugees

32. After five years of war, Burundi has the largest internally displaced and regrouped populations of any country in the region of the Great Lakes. Over 500,000 people, roughly 11 per cent of the population of the country are currently squatting in camps and makeshift sites, the vast majority of them in the western provinces of Cibitoke, Bubanza, Rural Bujumbura, Bururi and Makamba (see appendix I).

33. While the situation in Karuzi, Kayanza and Muramvya has steadily improved, the western provinces of Cibitoke, Bubanza, Rural Bujumbura, Bururi and Makamba remain unstable. Those provinces are bordered to the north by Rwanda and the Nyungwe forest, to the west by Kivu and Lake Tanganyika, and to the south by the United Republic of Tanzania, all of which are potential or actual sources of unrest. To the east is the Nile-Congo watershed, a monotonous ridge that bisects Burundi from south to north (where it coincides with the Kibira forest). That region is the main thoroughfare into and out of the country for the rebels, and its proximity explains the ongoing instability in those provinces and the sporadic but continued emergence of thousands of peasant populations who flee or are driven from rebel-controlled areas. Owing to the fluid situation in those conflict-affected provinces, it is extremely difficult to determine and track the number of regrouped populations per se with any precision.

34. The displaced population in Cibitoke province at its peak numbered 100,000 living in camps. In the case of the western communes of Rugombo and Mugina and particularly Buganda, the sites tended to be concentrated along the main tarmac road, RN5. From around May/June 1997, the displaced from Rugombo and Mugina communes began to return home, while at the end of the year, in Mabayi, Bukinanayana and Murwi, the authorities began to establish advanced military posts, around which smaller sites housing the people from neighbouring hills were established.

35. The authorities have recently begun to implement the same policy pursued in Cibitoke, dismantling the larger sites on the RN9 road and moving people to new, smaller sites grouped around advanced military posts. The rationale of the authorities is that security conditions do not yet permit

permanent reinstallation, and that the new sites are at least bringing people closer to their hills of origin.

36. In Rural Bujumbura province, precise information is difficult to obtain since the situation is extremely fluid and much of the province has remained off limits during the sustained period of rebel activity heralded by the airport attack of 1 January 1998. Moreover, the threat posed by landmines is particularly acute in that part of Burundi. The communes of Mubimbi, Isale and Mugongo Manga (in essence, the *collines* overlooking the capital to the east) have been particularly affected. The province currently has an estimated total of around 70,000 displaced persons living in various sites.

37. The 35,000 displaced persons in the province of Makamba are almost exclusively confined to the communes of Vugizo and Nyanza Lac, where the Special Rapporteur visited three sites. The latter commune, on the lakeside, is the southernmost commune of the country and the main point of entry and exit for rebel groups operating out of the United Republic of Tanzania. Like Bururi, Makamba remained stable, and hence relatively unaffected by population movements, until early 1997, when, in a repeat of the pattern seen in the other western provinces, displaced people from the mountainous areas began to congregate in new sites along the lakeside tarmac road (RN3).

38. The general trend that can now be discerned to varying degrees in all the provinces is the gradual dismantlement of the larger camps of regrouped and displaced persons and the installation of smaller, decentralized sites grouping people from the neighbouring hills around advanced military posts, with a view to their returning home for good in the medium term. Such a strategy allows the military to regain control of the territory and retain control of the population, while at the same time providing the population with greater protection and enabling the people to cultivate their fields during the day. The policy is at different stages of the implementation cycle in the various provinces, ranging from Cibitoke, where a large proportion of the displaced population is returning to their hills of origin, to Rural Bujumbura, where regroupement seems to be still in process.

39. During the first weeks of September, over 6,000 people have arrived in the north-western Cibitoke region of Burundi, fleeing fighting in the Democratic Republic of the Congo, according to official reports. Among them were 1,729 Burundians who were returning home. Most of the new arrivals were staying in temporary sites. That number reportedly included 42 per cent of children aged between 5 and 14, 23 per cent of children under 5 years of age, a further 24 per cent of women and the remaining 11 per cent of men. The number of unaccompanied children in Burundi could now be as high as 3,000.

C. Pre-trial detention and conditions of detention

40. During his visit, the Special Rapporteur observed a clear degradation of conditions of detention in Burundi, in consequence of the overcrowding and the lack of financial and human resources allocated to the prison administration. He also benefited from the extremely valuable observations made by the Office of the United Nations High Commissioner for Refugees during its missions to Bubanza, Kabezi, Makamba and Rumonge to inspect prisons and investigate human rights violations.

41. The official prison population on 27 August 1998 was estimated at 9,365, with a peak level of 9,700 detainees recorded in February 1998, a growth of 3,100 since December 1996 (see appendix II). During the period from February to June 1998, there was a decrease in the prison population as a result of measures taken by the Ministry of Justice. During the summer, the female population in the prisons was estimated at about 300. It is rather difficult to evaluate with precision the number of minors under 13 years of age in detention, who may number less than 100, according to official figures. The persons detained in the *cachots* are still believed to number several thousands.

42. The prison system in Burundi comprises 11 detention centres located in Bubanza, Bujumbura (Mpimba), Bururi, Gitega, Muyinga, Muramvya, Ngozi (two establishments, one for men and another for women), Rumonge, Rutana and Ruyigi. In addition to those prisons, there are other detention centres called *cachots*, located in police precincts and in brigade barracks and connected to the *parquets* (offices of the public prosecutor) and the administrative authorities of communes and zones. There are also non-official detention areas within military positions. Almost all those in charge of the detention centres and *cachots*, including the 600 agents working on the premises, are military or police personnel. There is only one woman directing the women's prison in Ngozi.

43. In most of the prisons, hygienic and sanitation conditions are disastrous, and when combined with overpopulation, they provoke a high level of mortality among detainees, especially in the prisons of Bujumbura, Gitega, Muramvya, Ngozi and Rutana. Severe malnutrition and other pathologies affect the majority of the prison inmates, who are weak and subject to a high mortality rate.

During the first six months of 1998, the prisons of Gitega, Muyinga and Ngozi had alarming mortality rates.

44. During the period from 1 January to 28 April 1998 alone, there were 229 deaths in the prison of Ngozi and 53 in the prison of Muyinga. During May and June 1998, the number of deaths in detention decreased in the country as a whole, but remained relatively high in Ngozi (37 deaths in May).

45. The *cachots* visited by the Special Rapporteur in the provinces of Kayanza and Karuzi were equally overcrowded. Dozens of inmates were living in dreadful, inhumane and cruel conditions in tiny cells without air, light or toilets. For instance, in one *cachot*, visited in Karuzi, there were 30 prisoners in a small cell measuring roughly 3.5 metres by 2 metres. They could barely sit, and were obliged to move around the cell so that the Special Rapporteur could measure its dimensions.

46. The Special Rapporteur was informed that the nutrition of the inmates in the *cachots* was entirely left to the responsibility of their families, most of which are unable to feed their detained relatives. Many inmates become completely dependent on the food received by others.

47. Many irregularities occur during detention. Most of the inmates have not been tried in a court of law, and several cases have been summarily decided in violation of several international conventions ratified by the Government of Burundi.*

48. The Special Rapporteur received several allegations of torture of people detained in *cachots* in Bujumbura or in the provinces, and during individual interviews, he was able to see signs of torture on the bodies of some inmates. Most of the allegations referred to torture committed during interrogation and preliminary investigations by the Judiciary Police to extract confessions. The Special Rapporteur also received complaints of ill-treatment during detention. Verbal intimidation is allegedly also coupled with physical violence inflicted by sticks, whips, electric cables or iron bars, involving blows to the body and particularly to the feet and hands. The presumed authors of those acts are usually identified as members of the Judiciary Police or as agents in charge of the *cachots* (gendarmes, military personnel or policemen).

49. The Special Rapporteur is very much concerned about the conditions of imprisonment of the at least 260 detainees under sentence of death at Mpimba prison in Bujumbura, more than twice the number indicated during his previous visit in December 1997. The prisoners are all kept together in just two cells under inhumane conditions without the possibility of leaving them at any time. The Special Rapporteur had the opportunity to raise the matter during his interview with the Minister of Justice, requesting him to consider ways to improve the conditions of detention so that the prisoners may have access to more humane treatment.

D. Living conditions of women and children

50. From 1990 to 1997 the poverty rate increased from 35 to 58 per cent in rural areas and from 32 to 66 per cent in urban areas of Burundi. The crisis and the war have worsened all the indicators of human poverty: the rate of child mortality per 1,000 live births passed from 111 in 1992 to 136 in 1996; primary school attendance declined from 51 per cent in 1992 to 35 per cent in 1996/97. Although vaccination coverage rates climbed rapidly from 1987 to 1992, vaccinations have fallen since 1993. Among the reasons for the dramatic decline is the lack of petrol needed to organize vaccination campaigns. Moreover, the crisis has had a marked effect on education services. Since the current crisis began, more than one third of the schools in the country have been damaged or destroyed. With the war and the embargo and the increase in the cost or the unavailability of needed materials, reconstruction has become more difficult, despite many efforts by the Burundian authorities.

51. According to the last census of August 1990, women make up 51.3 per cent of the population of Burundi, and they are essentially located in rural areas where 93.7 per cent of the total population live. The women work on average 18 hours a day for their families, half at home and half in the fields.[1]

52. Burundian women have been seriously affected by the crisis and the civil war. They constitute the majority of those found at the sites of displaced persons and regrouped populations and are the sole heads of their households. Before the crisis, women formed a large part of the workforce in rural areas which underwent a sharp decline during the war.

53. At sites of displaced persons and regrouped populations, the difficult access to food and water is the main problem, especially for women and children. The quantity of food is insufficient and its quality mediocre, maize being the main item of nutrition. Because of food

* On the reform of the judiciary, see Neil J. Kritz, "The problem of impunity and judicial reform in Burundi", paper presented at the Conference on Burundi, held in Washington D.C. in 1996 under the auspices of the United States Institute of Peace.

scarcity, the women make great sacrifices on behalf of their children who are in very precarious health. Women are often most vulnerable while engaged in their daily tasks, such as gathering firewood. In most camps, women must venture beyond the camp perimeters, sometimes walking several kilometres, to collect wood for their cooking fires. Exposed and helpless, they may be subjected to brutal sexual assault and rape. Often the victims are mercilessly shot, knifed or beaten.

54. Women at the sites are also affected by other health problems, including those relating to childbirth, abortions, anaemia and the lack of vaccination coverage and access to health care, as well as exposure to AIDS and other sexually transmissible diseases. The living conditions of women and children have therefore become highly precarious. In Burundi, women represented 50.6 per cent of the registered cases of persons tested as seropositive during surveys in 1995. The number of orphans with AIDS was estimated at 94,000 in 1997.

IV. Observations and recommendations

A. Observations

55. The Special Rapporteur acknowledges the important efforts deployed by the Burundian authorities to promote the peace process in the framework of the negotiations in Arusha, despite the problems crippling the Great Lakes region and the populations' movements occurring on the north-eastern frontier of the country.

56. Several recent initiatives seeking to implement a power-sharing arrangement among the Government, the political parties, the National Assembly and civil society helped to reduce the antagonisms between the various parties to the Burundi conflict. Those initiatives contributed to the building of a minimum level of trust between the parties determined to strengthen and consolidate the internal peace process. Both the Government and the National Assembly gave several indications that they had taken a "strategic decision to change things".[2]

57. However, the peace process faces a number of obstacles. The implementation of changes has generated favourable reactions among certain political parties and hostility among others and within factions of the main rebel organization, the Conseil National pour la Défense de la Démocratie. In addition, for the time being, none of the positions in the current Government is the result of a proper democratic election.

58. The Special Rapporteur is of the view that the above-mentioned changes must be regarded as a provisional structure within the framework of a process of transition towards democracy and as creating a favourable environment for the outcome of the meeting that was to be held in Arusha by mid-October 1998.

59. However, despite efforts carried out by the Government to inform the population in the provinces about the institutional changes, the majority of the people has not yet experienced a real decline in tension among local civilian or military authorities at the communal level.

60. The Special Rapporteur pays tribute to the efforts of the Ministry for Human Rights, Institutional Reform and Relations with the National Assembly to promote human rights with the participation of civil society. The Ministry is organizing meetings with local leaders and peasants to enable them to monitor human rights abuses in their own communities, with the help of printed material and posters.

61. The Special Rapporteur continues to be concerned about the lack of progress in the trial of military personnel accused of having been involved in the attempted *coup d'état* in 1993 and in the assassination of President Ndadaye. There were allegations of intimidation of witnesses such as commander Joseph Rugigana, who was the target of two attacks on his life in July 1998. In fact, only the lower military ranks continue to be the subject of the most serious accusations, while high ranking officials are being prosecuted for minor offences only.

62. The Special Rapporteur acknowledges that the Fourth Arusha Regional Summit on the Burundi conflict, which met in the United Republic of Tanzania on 16 April 1997, decided to expand "the easing of sanctions to include all food and food products, all items relating to education and construction materials, as well as all types of medicines, and all agricultural items and inputs in order to alleviate the suffering of the people of Burundi".[3] In addition, amounts of fuel have been allowed in for use by humanitarian agencies to meet the humanitarian needs of the people. The countries of the region have expressed their unequivocal position that once dialogue takes root, even the fuel embargo should be lifted.

63. The Special Rapporteur notes that in the aftermath of the six regional summits held so far, a selective regime of sanctions is currently in place in Burundi. As indicated in the statement of the First Deputy Prime Minister and Minister of Foreign Affairs of Uganda, Eriya Kategaya, to the fifty-seventh ordinary session of the Council of Ministers of OAU, the sanctions focus on the following four aspects: a ban on arms; an embargo on imports of fuel except for a

limited contingent allocated to humanitarian activities; a ban on commercial flights to and from Burundi; and a ban on exports.

64. Despite the clear commitment and commendable efforts made by the countries in the region to conduct a regular review of the sanctions, it is necessary to recognize that the embargo has caused a deterioration in the living conditions of families and children through its impact on the price level, the job market and family income. At the same time, national activities in the sphere of public health and education have been seriously hampered by the lack of equipment and medical supplies.

65. It is important to consider that the embargo was imposed on Burundi while the country was in the midst of a civil war. The embargo has therefore aggravated the already precarious situation in the country.

66. With respect to the political developments that have taken place both inside and outside the country over the last few months, and in the light of the trends referred to above, the time has come for a proper reassessment of the position adopted by the international community vis-à-vis humanitarian aid in early 1997. It is now crucial to reconsider, with the Government of Burundi, the key issues involved in the rehabilitation of displaced persons, regrouped populations and refugees in their communes and hills of origin. It would be fair enough to recognize that the situation in many areas of the country has moved into a predevelopmental phase, and that more specialized agencies in the field of development should take their proper place in the health sector.

67. The Special Rapporteur is convinced that Burundi, at the current stage, offers a hospitable context for an effective and enlarged presence of the Office of the United Nations High Commissioner for Refugees. On several occasions, during his visit, government authorities have expressed a sincere wish to see a larger international human rights presence in Burundi, with a stronger locally based component, which should be seen in future as a part of an overall peace agreement for the country.

68. The Special Rapporteur is of the view that the establishment of an international tribunal may help to address collective fears and memories of genocide by acknowledging past crimes and defining individual responsibility for those crimes. An important task that the tribunal could undertake would be to individualize guilt for crimes affecting the whole Burundian community, with a view to determining the individual responsibility of those found guilty of massacres, genocide and genocidal acts.[4]

B. Recommendations

69. In submitting the present report to the General Assembly, the Special Rapporteur wishes to formulate a number of recommendations relating to recent developments in Burundi, which also refer to several recommendations already made in his previous reports.

70. The Special Rapporteur requests the Government of Burundi to review the various recommendations that he made in previous reports. As recommended by the fifth meeting of Special Rapporteurs, Special Representatives and Experts held on May 1998, the Commission on Human Rights should be in a position to follow up the implementation of such recommendations.

1. At the national level

71. The Special Rapporteur urges the Burundian authorities to implement the urgent reforms proposed in his previous reports regarding the reconstruction of the judicial system. He emphasizes the imperative need to formulate adequate strategies for ending impunity and for reorganizing the functions of the army and security forces under distinct structures. He also considers it crucial to ensure that the majority of the population should have unhindered access to the major State institutions such as education, justice and the armed forces.

72. The Special Rapporteur reiterates his solemn and urgent appeal to the Burundian authorities to suspend the death sentences, currently numbering more than 250, and the life sentences pronounced during sessions of the criminal chambers, at least until the peace negotiations have been completed and reforms undertaken to establish an independent and impartial judicial system.

73. The Special Rapporteur thinks that, pending those future developments, it is highly desirable that steps be taken to reform the penal code and make the death penalty optional and not mandatory for offences currently punishable only by death.

74. The Special Rapporteur therefore once again urgently draws the attention of the Government to the need to respect articles 10 and 11 of the Universal Declaration of Human Rights, which stipulate that every accused person is entitled to a fair trial, including the right to be guaranteed legal assistance for his or her defence.[5] He again reminds the Government that it is its duty, as a State party to the International Covenant on Civil and Political Rights, to comply with articles 6 (paragraph 2), 14 and 15, which stipulate that a sentence of death may be imposed only for

the most serious crimes in accordance with the law in force at the time of commission of the crime, following a fair trial, and to pay all necessary attention to United Nations resolutions establishing guarantees for the protection of the rights of persons liable to the death penalty.[6]

75. The Special Rapporteur believes that the Burundian authorities should put an end to arbitrary detentions and exercise strict control over the officials responsible for detentions. They should not resort to arbitrary detention and disrespect legal procedures during detention. It is vital that illegal preventive detention should not be followed by a transfer to, and/or detention in, prison facilities.

76. To limit the periods of preventive detention in *cachots*, the authorities should exercise strict control over the tasks carried out by the Judiciary Police and conduct regular inspections of detention centres to ensure that arbitrarily or illegally detained persons will be released.

77. The authorities should also consider limiting preventive detentions for long periods, ending unlawful detentions and increasing the number of judicial inspections in the detention centres to ensure that cases will be processed in a timely manner.

78. The Special Rapporteur expects that the Burundian authorities will pay serious attention to the needs of the more vulnerable populations in the prisons and *cachots*, such as infants and minors, women and prisoners who are ill.

79. The Special Rapporteur strongly recommends to the authorities the enforcement of the rule stipulating that preventive detention should not exceed one week, within the framework of a preliminary investigation.

80. The Special Rapporteur requests the Government of Burundi to take urgent measures to ameliorate conditions of detention. Prisoners must not be subjected to cruel, inhumane or degrading treatment, regardless of their judicial status or the nature of their convictions or sentences. Prisoners condemned to the death penalty should not be submitted to harsher conditions than other detainees.

81. The Special Rapporteur requests that the appropriate assistance be provided to enable the Ministry of Human Rights to achieve the objective, set by the Office of the United Nations High Commissioner for Refugees, of enforcing the national human rights capacity to the maximum extent possible, including the strengthening of the centre for the promotion of human rights and prevention of genocide.

82. The Special Rapporteur once again draws the attention of the Burundian authorities to the urgent need to ensure respect for the standards of international humanitarian law and human rights, which prohibit indiscriminate attacks against the population and civilian targets during military operations. He also recalls the prohibition on looting and arbitrary destruction of their property.

83. The Special Rapporteur reiterates that rebel groups must see to it that their armed forces equally respect the principles of international humanitarian law and, in particular, article 3 common to the 1949 Geneva Conventions. He specifically draws their attention to the provisions relating to the physical security of the civilian population, non-combatants and prisoners.

84. The Special Rapporteur therefore appeals to the rebel groups to refrain from perpetrating attacks against civilians both within and outside the regroupement camps or camps for displaced persons and to duly give instructions to their subordinates to that effect.

2. At international level

85. The Special Rapporteur is convinced that it is essential for the protection of the human rights of the civilian population, especially of its most vulnerable groups, that a genuine ceasefire should be given top priority by the international community.

86. The Special Rapporteur recommends that the international community acknowledge the power-sharing initiatives taken by the Burundian authorities within the framework of the Partenariat interne pour la paix", despite its limitations. They should be seen as a serious attempt to come up with a provisional political structure that could take the country forward.

87. The Special Rapporteur urgently requests the international community to pursue its firm financial commitment in favour of the legal assistance programme. He thinks that it is important that the current group of six lawyers should be doubled for the next year. He considers that this valuable programme could help to ensure the presence of witnesses, for both the defence and the prosecution, which could promote greater fairness and rapidity in the conduct of trials.

88. The international community should not wait for the implementation of judiciary reform to assist in providing the most basic material and human resources. Foreign Governments should support the training of Burundian magistrates and attorneys and their exposure to the practices used by democratic judiciary systems to improve the competence, independence and impartiality of the judiciary.

89. He also appeals to the international community to urgently secure and increase financial support for the

activities of the Office of the United Nations High Commissioner for Refugees. The Special Rapporteur is convinced that a larger presence of international human rights observers in Burundi can be a decisive element within the framework of a peace agreement.

90. The Special Rapporteur recommends that the issue of an international criminal tribunal should once again be considered by the United Nations, but only when the proper conditions for establishing such a body have been met in Burundi. Those conditions are: the establishment of a ceasefire, the existence of a genuine internal political dialogue, the successful conclusion of the ongoing negotiations and the initiation of a process towards democratic governance.

91. The Special Rapporteur is convinced that the programmes of the United Nations agencies should continue to support the local communities through income-generating activities, increased participation of women in the economic and social life of their communities and increased food security. Such support should be extended by activities that promote a spirit of tolerance conducive to national reconciliation and the emergence of a culture of peace and human rights within Burundian society.

92. The Special Rapporteur encourages any initiative taken by the international community to accompany and support the process of peace negotiations both within and outside Burundi.

93. The Special Rapporteur strongly recommends that the international community should assist with medical and food help to prisoners in Burundi, conditioning such support on the improvement of conditions of detention, effective initiatives to control arbitrary detention and the introduction of administrative reforms to improve the management of the penitentiary system.

94. The international community should support and facilitate the work of local non-governmental organizations which are, with enormous difficulties, providing support to prisoners and detainees.

Notes

[1] See United Nations Children's Fund, "Burundi, the impact of the embargo on children and families in Burundi", August 1998. See also Ministère de la planification du développement et de la reconstruction/PNUD, "Rapport national de développement humain du Burundi 1997" (Bujumbura, 1998).

[2] See Jan Van Eck, "Burundi peace talks resume in Arusha on 15 June" (Cape Town, South Africa, Centre for Conflict Resolution, 10 June 1998). For recent developments in Burundi, see Stephen R. Weissman, "Preventing genocide in Burundi – Lessons from international diplomacy", report of the United States Institute of Peace (Washington, D.C., 15 September 1998).

[3] See letter dated 18 April 1997 from the Permanent Representative of the United Republic of Tanzania to the United Nations addressed to the President of the Security Council" (S/1997/319).

[4] See Weissman, "Preventing genocide ...", and Michael Ignatieff, *The Warrior's Honour* (New York, Viking Press, 1998), pp. 178–179.

[5] See General Assembly resolution 217 A (III) of 10 December 1948.

[6] See General Assembly resolution 2200 A (XXI) of 16 December 1966.

Appendix I

Breakdown of affected persons by province in Burundi

Province	*Site population*	
	June 1998	*August 1998*
Bubanza	65 184	159 740
Buja	35 338	88 966
Bururi	44 564	105 475
Cankuzo	3 254	3 290
Cibitoke	57 428	2 750
Gitega	20 997	21 499
Karusi	125 262	17 363
Kayanza	109 523	27 417
Kirundo	20 072	16 217
Makamba	13 812	31 822
Muramvya	46 017	13 390
Muyinga	35 852	29 920
Ngozi	21 530	24 128
Rutana	3 977	1 478
Ruyigi	4 118	2 795
Total	**606 938**	**546 250**

Sources: Office for the Coordination of Humanitarian Affairs, Integrated Regional Information Network, "*Plan d'action national en faveur des sinistrés, juillet-août 1998*", 4 June 1998.

Appendix II

Detention statistics as of 27 August 1998

Prison	Capacity	Prison population	Defendants		Sentenced		Minors	Infants
			Men	Women	Men	Women		
Bubanza	100	115	78	1	35	1	—	—
Bururi	100	272	246	8	20	—	10	1
Gitega	400	1 888	1 395	49	354	17	22	18
Mpimba	800	2 525	1 866	52	560	27	20	20
Muramvya	100	279	208	6	65	—	10	—
Muyinga	300	469	411	—	78	—	4	—
Ngozi[a]	250	86	—	53	—	24	2	9
Ngozi[b]	400	2 898	2 270	—	128	—	20	—
Rumonge	800	762	433	18	303	—	10	8
Rutana	100	309	140	6	161	1	5	1
Ruyigi	300	292	241	3	46	2	1	—
Total	**3 650**	**9 895**	**7 484[c]**		**1 822[c]**		**104**	**57**

Source: Government of Burundi.

[a] Women's facilities.

[b] Men's facilities.

[c] Women and men combined.